



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/472,972 12/28/99 KAMEO

Y 0445-0275P

QM12/0801
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EXAMINER

KIDWELL, M

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

08/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/472,972

Applicant(s)

KAMEO ET AL.

Examiner

Michele M. Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 1999 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "3b" has been used to designate both left and right rear wing portions. Correction is required.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Absorbent Article Including Rear Wing Portions

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the abstract should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the abstract.

Claim Objections

Claims 3 and 6 are objected to because of the following informalities: In claim 3, the first occurrence of the word "of" should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 2 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the wing portion absorbent core being isolated from the body absorbent core, does not reasonably provide enablement for the wing portion core being isolated with each other. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

Claims 2 and 6 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 2, it is unclear how one member can be isolated with another member. If isolation means to separate from each other, it is not clear how two items can be separated with each other.

As to claim 3, while it is known that a wing portion absorbent core may measure 80 cm² or less in an absorptive area, it is unclear how a wing portion absorbent core *is* 80 cm² or less in an absorptive area.

As to claim 5, while it is known that a wing portion absorbent core may measure 20 to 500g in buckling strength, it is unclear how a wing portion absorbent core *is* 20 to 500 g in buckling strength.

Claim 9 recites the limitation "the side" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the side" in line 7, "the longitudinal opposite side portions" in line 10 and "said extended lower layer portion" in line 13. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1 – 2, 6 – 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Coles et al. (US 5,868,725).

As to claim 1, Coles et al. (hereinafter "Coles") discloses an absorbent article (1) comprising an elongate absorbent body and a pair of left and right rear wing portion disposed at longitudinal opposite left and right sides of the absorbent body in a rear zone thereof (31) wherein each of the rear wing portions includes a liquid-retentive wing portion absorbent core (33) as set forth in figures 1, 3 – 7 and 9 – 11.

With respect to claim 2, as best understood by the examiner, Coles discloses an absorbent article wherein the absorbent body includes a liquid-retentive body absorbent core (3), and wherein the body absorbent core and the wing portion absorbent core are isolated with each other through an isolating member as set forth in figure 3.

With reference to claim 6, Coles discloses an absorbent article comprising an elongate absorbent body and a pair of left and right wing portions disposed at longitudinal opposite left and right sides of the absorbent body (figure 2) wherein each of the wing portions is formed by laminating at least two sheet materials and the two sheet materials being bonded through an adhesive agent only (col. 10, lines 51 – 53) excluding adhesive agent non-coated areas of a predetermined width formed on said wing portions along opposite side edges of the absorbent body as set forth in figures 9 and 11.

Regarding claim 7, Coles discloses an absorbent article wherein the two sheet materials are an antileakage sheet (40) and an absorptive sheet (33) placed on the antileakage sheet as set forth in figure 6.

As to claim 8, Coles discloses an absorbent article wherein the absorptive sheet is provided on an upper surface side thereof with a liquid-permeable sheet (24) in such a manner as to cover said absorptive sheet as set forth in figures 3, 5 – 7 and 9 – 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3761

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 – 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coles et al., as applied to claims 1 – 2 and 6 – 8, and further in view of Fung et al. (US 5,423,786).

The difference between Coles and claim 3 is the provision that the wing portion absorbent core has 80 cm² or less in absorptive area after 1 minute of dropping 1 g of a physiological solution of sodium chloride.

Fung et al. (hereinafter “Fung”) teaches an absorbent article wherein the wing portion is comprised of an embossed absorptive paper as set forth in col. 4, lines 27 – 29 and in figures 5a, 6a and 7a.

It would have been obvious to one of ordinary skill in the art to modify the absorptive paper of Coles with embossing because embossing enhances fluid distribution, comfort and/or aesthetics as taught by Fung in col. 4, lines 27 – 29.

In light of the preceding, it would be inherent that the embossed absorptive paper of Fung would yield an absorptive area identical to the claimed invention because the applicant has disclosed on page 6 of the specification that embossed absorptive paper would provide the absorptive area as claimed.

As to claim 4, Fung discloses an absorbent article wherein the wing portion is comprised of an embossed absorptive paper as set forth in col. 4, lines 27 – 29 and in figures 5a, 6a and 7a.

With reference to claim 5, it would be inherent that the embossed absorptive paper of Fung would yield a buckling strength identical to the claimed invention because the applicant has disclosed on page 8 of the specification that embossed absorptive paper would provide the buckling strength as claimed.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coles et al., as applied to claims 1 – 2 and 6 – 8.

With reference to claim 9, the absence of critical teaching and/or unexpected results leads the examiner to believe that the inclusion of a pair of left and right front wing portions disposed at longitudinal opposite left and right sides of the absorbent body at the side of a front zone would have been an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art invention.

Additionally, it would have been obvious to one of ordinary skill in the art to modify the absorbent article of Coles by providing an additional pair of left and right wing portions since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coles et al., as applied to claims 1 – 2 and 6 – 9, and further in view of Yamamoto (US 5,447,507).

The difference between Coles and claim 10 is the provision that the absorbent article comprise an elongate upper layer portion and a lower layer portion.

Yamamoto teaches an absorbent article comprising an elongate upper layer portion (110a) comprised of a body absorbent core (114) and a liquid-permeable topsheet (111) disposed in such a manner as to cover upper and side surfaces of the body absorbent core (figure 4); and a lower layer portion comprised of a liquid-impermeable antileakage sheet (212), a liquid permeable sheet having a generally same configuration as said antileakage sheet (211) and an absorptive sheet interposed between the antileakage sheet and the liquid-permeable sheet (214) with the lower layer portion being enlarged in width dimension on the side of the front zone and the rear zone (figures 1 – 4) with the upper layer portion being placed on the liquid-permeable sheet of the lower layer portion such that the longitudinal opposite side portions of the lower layer portion, which are enlarged in the width dimension, may extend from a longitudinal side edge of the upper layer portion with the front and rear wing portions being formed of the extended lower layer portion as set forth in figures 3 and 4.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell
Michele Kidwell
July 27, 2001


John G. Weiss
Supervisory Patent Examiner
Group 3700

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.